

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**ALTHEA JOHNSON,**

**Plaintiff,**

**v.**

**6:03-CV-1510  
(FJS/RFT)**

**MICHAEL J. ASTRUE, Commissioner,  
Social Security Administration,**

**Defendant.**

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**APPEARANCES**

**OF COUNSEL**

**EMPIRE JUSTICE CENTER**

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2nd Floor  
Albany, New York 12210  
Attorneys for Plaintiff

**LOUISE MARIE TARANTINO, ESQ.**

**OFFICE OF THE UNITED  
STATES ATTORNEY**

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U.S. Courthouse  
100 South Clinton Street  
P.O. Box 7198  
Syracuse, New York 13261-7198  
Attorneys for Defendant

**WILLIAM H. PEASE, AUSA**

**SCULLIN, Senior Judge**

**ORDER**

In a Report-Recommendation and Order dated January 31, 2008, Magistrate Judge Treece recommended that this Court affirm the Commissioner's decision and dismiss the Complaint. *See* Dkt. No. 15. Plaintiff filed objections to Magistrate Judge Treece's findings and

recommendations with respect to (1) the Administrative Law Judge's ("ALJ") application of the treating physician rule; (2) the ALJ's credibility determination; and (3) the ALJ's findings with respect to Plaintiff's past relevant work and residual functional capacity. *See* Dkt. No. 16.

With respect to all of Plaintiff's objections, the Court concludes that Magistrate Judge Treece correctly applied the appropriate law and that Plaintiff's objections on these issues are without merit for the reasons stated in the Report-Recommendation and Order.<sup>1</sup>

Accordingly, after carefully considering Magistrate Judge Treece's Report-Recommendation and Order, Plaintiff's objections thereto, as well as the applicable law, and for the reasons stated in Magistrate Judge Treece's Report-Recommendation and Order, the Court hereby

**ORDERS** that Magistrate Judge Treece's January 31, 2008 Report-Recommendation and Order is **ADOPTED** in its entirety; and the Court further

**ORDERS** that the Commissioner's decision is **AFFIRMED** and Plaintiff's Complaint is **DISMISSED**; and the Court further

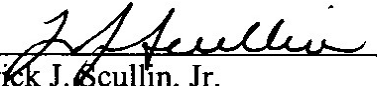
**ORDERS** that the Clerk of the Court shall enter judgment for Defendant and close this case.

**IT IS SO ORDERED.**

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<sup>1</sup> With respect to Plaintiff's third objection, the ALJ relied on Plaintiff's own description of her prior employment. Plaintiff's letter to her counsel, which was submitted to the Appeals Counsel, contradicted her prior statements to the ALJ. In any event, the ALJ properly relied upon the appropriate information to determine Plaintiff residual functional capacity and that she could perform her past relevant work.

Dated: March 30, 2009  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge